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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,347	12/30/1998	PIERRE BIERRE	P-4286	1754

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EXAMINER	
CROSS, LATOYA I	

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/223,347	BIERRE ET AL.	
	Examiner	Art Unit	
	LaToya I. Cross	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *51-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *51-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Applicant's remarks filed on February 6, 2004. Claims 51-70 are pending.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 51-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,877,134 to Klein in view of Japanese publication 08304410 to Susumu et al and US Patent 6,180,351 to Cattell .

Klein teaches a test tube for storing sample material. The test tubes (10) each contain a bar code or alphanumeric code to identify the test tube. The code is further associated with the contents of the test tube after a sample is placed within the test tube. Klein teaches that the bar code/alphanumeric codes are placed on the test tube before it is used to store a sample. Then, after a sample is placed in each particular tube, the identity of the sample is associated with the bar/alphanumeric code. See col. 5, lines 41-55 and figure 4.

Klein differs from the instant invention in that there is no specific teaching of a database containing information about the container and information concerning the contents of the container. Klein further differs in that there is no teaching of the bar codes being "universally unique".

Susumu et al generally teach bar codes on the external surfaces of sample containers. Susumu et al teach that the bar code is read and the information from the bar code is sent to a host computer, which in turn obtains information regarding the patient from a database corresponding to the bar code information. It would have been obvious to one of ordinary skill

in the art to have a database containing information regarding the test tubes and contents associated with the bar coded test tubes of Klein. In using a database, the container information and content information can be easily stored and easily retrieved. Using a database would also allow for information on multiple container and samples to be present in a central location making information retrieval by the user quick and easy. Because Klein teaches that barcodes are associated with the individual tubes and later associated with the contents of the tubes, it would have been obvious to one of ordinary skill in the art to have two databases – one for the tubes themselves and one for the contents of the tubes. Where the bar codes are associated with the tubes during manufacturing, it would have been obvious that the manufacturer would be responsible for the database of information associated with the tubes. Further, where the user begins to store samples in the tubes, it would have been obvious that the user would be responsible for the information associated with the contents of tubes.

With respect to the bar codes being "universally unique", Cattell teaches the use of "Universally Unique Identifiers" (UUID), such as bar codes, on biological arrays that are manufactured at a fabrication facility and shipped to the end user. Cattell teaches that using a UUID eliminates the possibility of the same identifier being associated with different arrays. See col. 2, lines 6-42 of Cattell. It would have been obvious to one of ordinary skill in the art for the bar code identifiers of Klein to be "universally unique" to assure that no two tubes have the same identifier and further aid in keeping track of the tubes and the samples put into the tube.

With respect to claim 55, Applicants' admit at page 21 of the specification, lines 18-20, that it is well known to access information from a database using a direct link computer or the internet.

With respect to claims 60 and 61, Applicants' admit at page 17, lines 3-5 that 12 and 18 decimal digit identifiers are well known in the art of bar coding.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be obvious, within the meaning of 35 USC 103 in view of the teachings of Klein and Susumu et al.

3. Claims 62-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Susumu et al and Cattell as applied to claims 51-61 above, and further in view of Pulaski et al.

Pulaski et al teach a process for high contrast marking on surfaces using lasers, whereby micro-reflectors are formed on the surfaces being marked. The surface markings may be applied to glass or plastic surfaces of containers. Pulaski et al disclose prior art markings which were inferior since they could be removed during shipping or handling processes. The reference teaches the advantages of using laser markings which would prevent removal of the marks and allow for containers to be marked with specialized information. See col. 1, lines 49-57 and col. 2, lines 51-53. At col. 3, lines 51-55, Pulaski et al teach the use of laser beams for directly marking or engraving the surface.

It would have been obvious to one of ordinary skill in the art to use the concepts of laser etching and specular reflectance on the container provided by Klein since the identification process of Pulaski et al '778 would provide a more accurate manner for labeling biological samples and a manner in which the labeling may not be tampered with. Use of such as process would allow for easy identification of the containers.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be obvious within the meaning of 35 U.S.C. 103 in view of the teachings of Klein, Susumu et al and Pulaski et al.

Response to Arguments

4. Applicant's arguments with respect to claims 51-70 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 571-272-1256. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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